

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
ALLAH PAIGE

Cv 17-4942

Plaintiffs

COMPLAINT

-against-

CITY OF NEW YORK , "JOHN DOES"
NEW YORK CITY POLICE OFFICERS

Defendants

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Plaintiff, ALLAH PAIGE , by his attorney, the LAW OFFICE OF ANDREW BERSIN,
hereby brings this action under 42 U.S.C. section 1983 to redress their civil and legal rights and
alleges as follows:

PRELIMINARY STATEMENT

1. This is a civil rights action which the above named plaintiff , seeks relief for the
defendants' violations of their rights secured by the Civil Rights Act of 1871, 42
U.S.C. 1983, by the United States Constitution including its First, Fourth and
Fourteenth Amendments and by the laws and Constitution of the State of New York.
Plaintiffs seek compensatory and punitive damages , an award of costs and interest
and attorney's fees and such other and further relief as this Court deems just and
proper.

JURISDICTION AND VENUE

2. This action is brought pursuant to 42 U.S.C. 1983 and 1988, and the First, Fourth and Fourteenth Amendments to the United States Constitution. Jurisdiction is conferred upon this Court by 28 U.S.C. 1331 and 1343, this being an action seeking redress for the violation of the Plaintiffs' constitutional and civil rights.
3. Plaintiffs further invoke this Court's supplemental jurisdiction, pursuant to 28 U.S.C. 1367, over any and all state law claims and as against all parties that are so related to claims in this action within the original jurisdiction of this court that they form part of the same case or controversy.
4. Venue in this District is proper under 28 U.S.C. 139(b) and (c) in that Defendant CITY OF NEW YORK is administratively located within the SOUTHERN DISTRICT of New York, and the events giving rise to this claim occurred within the boundaries of the EASTERN District of New York.

JURY TRIAL DEMANDED,

5. Plaintiffs demand a trial by jury on each and every one of their claims as pleaded herein.

PARTIES

6. At all times relevant to this action, Plaintiff, ALLAH PAIGE, hereinafter referred to as PAIGE, is a resident of Richmond County, New York.
7. Defendant CITY OF NEW YORK, hereinafter referred to as the CITY, is and was at all times relevant herein a municipal entity created and authorized under the laws of the State of New York. It is authorized by law to maintain a police department

which acts as its agent in the area of law enforcement and for which it is ultimately responsible. Defendant CITY assumes the risks incidental to the maintenance of a police force and the employment of police officers.

8. Defendants UNKNOWN JOHN DOE POLICE OFFICERS, hereinafter referred to as JOHN DOE'S, and other unnamed police officers are and were at all times relevant herein duly appointed and acting officers, servants, employees and agents of the New York City Police Department, a municipal agency of Defendant CITY . At all times relevant herein, the individual defendants were acting under color of laws , statutes, ordinances , regulations, policies, customs and /or usages of the State of New York and the New York City Police Department in course and scope of all their duties and functions as officers, agents, servants and employees of Defendant CITY, were acting for, and on behalf of, and with the power and authority vested in them by the City of New York and the New York City Police Department and were otherwise performing and engaging in conduct incidental to the performance of their lawful functions in the course of their duties. They are sued individually and in their official capacity.
9. By their conduct, acts, and omissions complained of herein, Defendants, "JOHN DOE'S", other unnamed New York City Police Officer, violated clearly established constitutional standards under the First, Fourth, and Fourteenth Amendments to the United States Constitution of which a reasonable police officer under the circumstances would have known.

NOTICE OF CLAIM

10. Plaintiff timely filed a Notice of Claim with the Comptroller of the City of New York, setting forth the facts underlying Plaintiff's claim against the CITY OF NEW YORK.
11. The plaintiff, ALLAH PAIGE, was subjected to an examination pursuant to N.Y. Gen. Mun. L. Sec. 50H.
12. To date no compensation has been offered by Defendant CITY OF NEW YORK.
13. This action has been commenced within one year and ninety days of the date of occurrence of the events giving rise to this COMPLAINT.

STATEMENT OF FACTS

14. On August 22, 2017, the plaintiff, ALLAH PAIGE, was inside a delicatessen located on Holland Ave, on Staten Island when he was confronted by a group of New York City Police Officers.
15. The defendant "JOHN DOE'S", without provocation, began assaulting the plaintiff by punching and kicking him and knocking him to the ground.
16. As a result of being assaulted by these defendants ALLAH PAIGE, sustained multiple bruises about his body and required stitches to close a wound under his eye.
17. The plaintiff, was arrested and handcuffed and taken to the precinct and jail.

FIRST CLAIM: EXCESSIVE FORCE

DEPRIVATION OF RIGHTS UNDER THE FOURTH AND FOURTEENTH AMENDMENTS
AND 42 U.S.C. 1983

18. Plaintiff re-alleges and incorporates by reference the allegations set forth in each proceeding paragraph as if fully set forth herein.

19. The conduct and actions of Defendants named above acting in concert and under color of law, in authorizing, directing the unlawful seizure of the plaintiff and/or causing injuries to plaintiffs by using excessive and unreasonable force upon said plaintiffs, was done intentionally, willfully, maliciously, with deliberate indifference and /or with reckless disregard for the natural and probable consequences of their acts, done without lawful justification or reason and was designed to and did cause specific and serious physical and emotional pain and suffering in violation of Plaintiffs' rights as guaranteed under 42 U.S.C. 1983, and the Fourth and Fourteenth Amendments to the United States Constitution, including the right to be free from the use of excessive , unreasonable, and unjustifiable force and unreasonable and unjustified seizure and arrest.
20. As a direct and proximate result of the foregoing, Plaintiff was subjected to great physical and emotional pain and humiliation, was deprived of his liberty and was otherwise damaged and injured.

INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS
COMMON LAW CLAIM

21. Plaintiff re-alleges and incorporate by reference the allegations set forth in each preceding paragraph as if fully set forth herein.
22. The above named defendants conduct as fully set forth in the statement of facts was extreme, outrageous and utterly intolerable in a civilized community; conduct which exceeded all reasonable bounds of decency .
23. The Defendants ' conduct describe above, was intended to and did cause emotional distress to plaintiffs.

24. The conduct of Defendants was the direct and proximate cause of injury and damage to Plaintiff and violated statutory and common law rights as guaranteed by the laws and Constitution of the State of New York
25. As a result of the foregoing Plaintiff was deprived of their liberty were subjected to serious physical emotional pain and suffering, and were, otherwise damaged and injured.

NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS
COMMON LAW CLAIM

26. The above named Defendants conduct in attacking and beating the plaintiff , was careless and negligent as to the emotional health of Plaintiff and caused severe emotional distress to plaintiff.
27. The acts and conduct of Defendants was the direct and proximate cause of injury and damage to plaintiff and violated his statutory and common law rights as guaranteed by the laws and Constitution of the State of New York.
28. As a result of the foregoing, Plaintiff was deprived of his liberty, was subjected to serious physical and emotional pain and suffering and were otherwise damaged and injured

NEGLIGENCE
COMMON LAW CLAIM

29. Plaintiff re-alleges and incorporates and incorporates by reference the allegations set forth in each preceding paragraph as if fully set forth herein.
30. Defendants, while acting as agents and employees for the City of New York, in their capacity as police officers for CITY OF NEW YORK, owed a duty to plaintiff to

perform their police duties without the use of excessive force. Defendants "JOHN DOE'S", use of force upon Plaintiff when Plaintiff was unarmed and did not pose a threat of death or grievous bodily injury to defendants or to others constitutes negligence for which said named defendants are directly liable.

31. Said Defendants use of force against Plaintiff constitutes negligence for which Defendants are directly liable

32. As a proximate result of defendants negligent use of excessive force, Plaintiff suffered physical and emotional pain and suffering and was otherwise damaged and injured.

**NEGLIGENT RESPONDEAT SUPRIOR LIABILITY OF THE CITY OF NEW YORK
FOR STATE LAW VIOLATIONS**

COMMON LAW

33. Plaintiff re-alleges and incorporates and incorporates by reference the allegations set forth in each preceding paragraph as if fully set forth herein.

34. The conduct of Defendant " " as alleged herein occurred while they were on duty and in uniform in and during the course and scope of their duties and functions as a New York City police officer, and while they were acting as an agents and employees of Defendant CITY OF NEW YORK. As a result Defendant CITY OF NEW YORK is liable to plaintiffs pursuant to the state common law doctrine of respondeat superior.

WHEREFORE, Plaintiff demands the following relief jointly and severally against all of the defendants:

a. Compensatory damages in the amount to be determined by a jury.

- b. Punitive damages in an amount to be determined by a jury.
- c. The convening and empanelling of a jury to consider the merits of the claims herein:
- d. Costs and interest and attorney's fees:
- e. Such other and further relief as this Court may deem just and proper

Dated: August 21, 2017
Newburgh, New York 12550

andrew bersin

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